

## KIRKLAND &amp; ELLIS

PARTNERSHIPS INCLUDING PROFESSIONAL CORPORATIONS

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March 22, 2002

VIA FACSIMILEHonorable Judge Prezau  
Nineteenth Judicial District Court  
Lincoln County  
512 California Avenue  
Libby, MT 59923Re: Montana Vermiculite Company

Dear Judge Prezau:

As you may recall, I am one of the attorneys for W. R. Grace and its affiliates. Pursuant to your direction today at the telephonic hearing in the above referenced matter, enclosed is a draft order which I prepared, in conjunction with counsel for Royal Indemnity Company, denying the Petition for Appointment of Trustee for Montana Vermiculite Company.

Thank you for your time and attention in this matter.

Sincerely,



Janet S. Baer

cc: John Lacey  
Carl Pernicone

London

Los Angeles

New York

Washington, D.C.

**MONTANA NINETEENTH JUDICIAL DISTRICT COURT  
LINCOLN COUNTY**

**IN THE MATTER OF MONTANA  
VERMICULITE CO.,**

a dissolved Montana corporation.

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Cause No. 3987

**ORDER DENYING PETITION FOR  
APPOINTMENT OF TRUSTEE**

This cause, having come to be heard on the Petition for Appointment of Trustee and Request for Hearing, the Court having heard the arguments of counsel and being otherwise fully advised in the premises;

The Court, based on the representations of counsel, finds:

- 1) That Royal Indemnity Company ("Royal") and Montana Vermiculite Company ("MVC") share no unity of interest;
- 2) That MVC is not an insured under the comprehensive general liability coverage Royal provided, at various times, between 1953 and 1963;
- 3) That any coverage obligation for asbestos claims Royal may have owed under that coverage was fully satisfied and released, pursuant to a 1995 settlement agreement between Royal and W. R. Grace & Co.;
- 4) That MVC was dissolved in 1963;
- 5) That, after dissolution, all of MVC's assets were sold and or distributed; and
- 6) That, to the extent the petitioning Plaintiffs may have claims relating to MVC, those claims implicate the Chapter 11 Bankruptcy case of Grace and its affiliates and are, hence, stayed by Chapter 11 case.

Therefore, the Petition is unnecessary and is hereby denied.

\_\_\_\_\_, 2002

\_\_\_\_\_  
Honorable Judge Prezeau

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